

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA**

**IN RE: IMPLEMENTATION OF
SENTENCING PROCEDURES UNDER
THE SENTENCING REFORM ACT
OF 1984**

STANDING ORDER

Upon consideration, the Court has determined that the following procedures are hereby established to govern sentencing proceedings under the Sentencing Reform Act of 1984, with an effective date of November 1, 1987.

WHEREAS, to provide adequate time for the United States Probation Office to prepare the presentence investigation report (PSI), disclosure of the PSI to the parties, the filing of presentence submissions by the parties, and such other and further procedures contemplated by the Sentencing Guidelines and this Order, it is hereby

1. ORDERED AND ADJUDGED that sentencing proceedings shall be scheduled by each District Judge no earlier than sixty (60) days following entry of a guilty or nolo contendere plea or a verdict of guilty unless otherwise agreed by the parties or ordered by the Court.

It is further

2. ORDERED AND ADJUDGED that the PSI, including guideline computations shall be completed and disclosed to the parties at least twenty (20) days prior to the scheduled sentencing hearing, unless the minimum period is waived by the defendant. It shall be the responsibility of the counsel for the defendant and for the Government to contact the United States Probation Office to obtain a copy of the PSI twenty (20) days prior to sentencing. It shall be the defense counsel's responsibility to contact and discuss the contents of the PSI with the defendant. The PSI should be disclosed only to the defendant, defense counsel, and the attorney for the Government. It is further

3. ORDERED AND ADJUDGED that the counsel for the parties may retain the PSI in their custody, and counsel for the defendant shall provide a copy to the defendant. However, the PSI is a confidential document and neither the parties nor their counsel are authorized to duplicate or disseminate it to third parties without prior permission of the Court. It is further

4. ORDERED AND ADJUDGED that if a party reasonably disputes sentencing factors or facts material to sentencing or seeks the inclusion of factors or facts material to sentencing in the PSI,

it is the obligation of the complaining party to seek administrative resolution of such factors or facts through the opposing counsel and the United States Probation Office prior to filing the pleading referenced in paragraph 5. Informal resolution of disputed factors or facts material to sentencing should be resolved if possible and practicable through informal procedures, including telephone conferences. A more formal presentence conference to be attended by both parties and to be coordinated by the United States Probation Office is mandatory if disputed factors or facts cannot be resolved informally and, in the opinion of the United States Probation Office, such a conference is necessary and might be productive in resolving disputed factors or facts. It is further

5. ORDERED AND ADJUDGED that at least ten (10) days prior to the scheduled sentencing hearing, counsel for the defendant and the Government shall file a written pleading entitled, "Position of Parties with Respect to Sentencing Factors". This pleading should be filed with the Clerk of the Court with a copy provided to the United States Probation Office and opposing counsel. This pleading should state that each party adopts the PSI or their position as to any disputed factors or facts, including application of the guidelines or any alleged inaccuracies in the PSI. When there are disputed factors or facts, the pleading should also state what evidence, including written submissions or witnesses the aggrieved party wishes to present at the sentencing hearing. This pleading should include a written statement certifying that the party has conferred with opposing counsel and the United States Probation Office in a good faith effort to resolve any disputed matters. It is further

6. ORDERED AND ADJUDGED that the counsel for the parties shall confer no later than seven (7) days prior to the scheduled sentencing proceeding with respect to the anticipated length of the sentencing and the number of witnesses to be called. If either party reasonably anticipates that the sentencing proceeding will exceed thirty (30) minutes, that party shall file a notice with the Clerk of the Court and shall hand deliver a courtesy copy to the United States Probation Office no later than five (5) days prior to the sentencing proceeding. The notice shall advise the Court of the number of witnesses to be called and the estimated time required for the sentencing proceeding. It is further

7. ORDERED AND ADJUDGED that prior to the scheduled sentencing hearing, the United States Probation Office shall transmit to the sentencing judge the PSI, including guideline computations, an addendum indicating any unresolved factual disputes or objections by the parties with respect to the application of the guidelines or alleged inaccuracies in the PSI, and a copy of the pleading filed by the parties entitled, "Position of Parties with Respect to Sentencing Factors". It is further

8. ORDERED AND ADJUDGED that when there are disputed factors or facts prior to the scheduled sentencing hearing, the sentencing judge will file written tentative findings with the Clerk of the Court in response to the pleadings filed by the parties entitled, "Position of Parties with Respect to Sentencing Factors", referenced in paragraph 5. It is the obligation of the defense counsel and prosecutor to contact the Clerk's Office or the United States Probation Office prior to the scheduled sentencing hearing to obtain a copy of the Court's tentative findings regarding the disputed factors or facts. It is further

9. ORDERED AND ADJUDGED that the aggrieved parties will have an opportunity at the sentencing hearing and prior to the imposition of sentence to respond to the sentencing judge's

notice of tentative findings regarding disputed factors or facts. The manner and form of such responses by the parties are subject to the informed discretion of each sentencing judge on a case by case basis. It is further

10. ORDERED AND ADJUDGED that it shall be the position of the Court that only those factors or facts important to the sentencing determination or as to any alleged inaccuracies in the PSI as set out in the pleading entitled, "Position of Parties with Respect to Sentencing Factors", referenced in paragraph 5, will be an issue at the sentencing hearing. Except with regard to any objections made under paragraph 5 that have not been resolved, the report of the presentence investigation may be accepted as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of the sentence. It is further

11. ORDERED AND ADJUDGED that failure to comply with any of these procedures may result in the imposition of sanctions. It is further

12. ORDERED AND ADJUDGED that the United States Probation Office shall promulgate policies and procedures with respect to the implementation of this Administrative Order. Further

13. The Court shall monitor the adequacy of existing sentencing procedures promulgated under this Order and make such modifications as the Court deems appropriate. Further

14. This order amends and supersedes all prior standing orders of this Court regarding the establishment of procedures governing sentencing pursuant to the Sentencing Reform Act of 1984.

DONE this the 11th day of December, 1990.

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ALEX T. HOWARD, JR.
CHIEF UNITED STATES DISTRICT

<s>

CHARLES R. BUTLER, JR.
UNITED STATES DISTRICT JUDGE

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RICHARD W. VOLLMER, JR.
UNITED STATES DISTRICT JUDGE